

# HOUSE BILL REPORT

## ESHB 2148

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**As Passed House:**  
February 16, 2016

**Title:** An act relating to the state auditor including allowing for audits to be conducted by a private entity and establishing an appeal process.

**Brief Description:** Concerning the state auditor including allowing for audits to be conducted by a private entity.

**Sponsors:** House Committee on General Government & Information Technology (originally sponsored by Representatives Chandler, Pike and Hudgins).

**Brief History:**

**Committee Activity:**

General Government & Information Technology: 2/23/15, 2/8/16 [DPS].

**Floor Activity:**

Passed House: 2/16/16, 95-2.

**Brief Summary of Engrossed Substitute Bill**

- Authorizes local governments to request a private financial audit by a Certified Public Accountant firm, in lieu of one by the State Auditor.
- Requires local governments to have a financial audit by the state auditor at least one time for every four financial audits.
- Requires the state auditor to provide local governments up to 60 days to discuss and reconcile completed financial audit reports by the state auditor prior to publishing the report.

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**HOUSE COMMITTEE ON GENERAL GOVERNMENT & INFORMATION TECHNOLOGY**

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Hudgins, Chair; Kuderer, Vice Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Johnson and Morris.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** Without recommendation. Signed by 1 member: Representative Senn.

**Staff:** Lily Sobolik (786-7157).

**Background:**

The State Auditor's Office (SAO) holds state and local governments accountable for the use of public resources. By constitution, the State Auditor has the power to examine the financial affairs of all governments in the state, including local governments, schools, all state agencies, and institutions of higher education. In addition, the SAO carries out special investigations and performance audits of state and local governments.

**Summary of Engrossed Substitute Bill:**

The engrossed second substitute bill authorizes local governments to request a private financial audit by a Certified Public Accountant firm, in lieu of one by the State Auditor. The engrossed second substitute bill requires local governments to have a financial audit by the State Auditor at least one time for every four audits. The engrossed second substitute bill requires the State Auditor to provide local governments up to 60 days to discuss and reconcile a completed financial audit report and findings by the State Auditor prior to publishing the report.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) It is unusual to have a bill that touches on the separation of powers. There is respect for the separation of powers but there are questions about accountability and transparency. This bill is not pointing out where the problems are, it is just trying to increase accountability and transparency. The Legislature has a stake in the success of executive offices. The process of auditing public activities and public agencies is becoming increasingly complex but it is inscrutable to most of our constituents. The judgment of local government comes with a lot of responsibility; it is a fundamental and urgent issue.

It is important that when there are inconsistencies between state and federal reporting requirements, to make sure everyone gets it right in a way that people understand. This bill improves accuracy and integrity of conclusions by state auditors. It also protects local governments from false and defamatory findings. It allows government agencies due process where there currently is none. Currently, the SAO has no effective procedures to guard against various mistakes and deliberate missteps. Washington State is currently the only state to bestow such awesome powers on the SAO. For the past three years the Toppenish School District has had issues with false findings and tried to appeal, to no avail. Last year, the District had a private re-audit which the State Auditor said was not binding. The District

asked Washington school business officials to re-audit and they found the opposite of what the SAO reported.

Some of the arguments against this bill are, first, that it compromises the opinion of the SAO. That is not the intent, the purpose is to appeal false findings. The state auditor can keep their opinions they just can not report false findings. Second, they say that we are appealing to nonauditors but 99 percent of all findings are legal findings, not accounting-related findings, and thus an auditor is not needed. It is common to hear that disagreements about proposed findings are really differences of professional opinion, but that is not always the case. There must be verifiable facts before conclusions are reported. It is important to give local agencies the chance to correct serious mistakes, or at least verify facts that reasonably support auditors conclusions, before they are published and cause irreparable harm.

The SAO will argue that it has standards in place to ensure quality control. There have been no complaints against the auditor's standards and practices but no one checks to make sure the practices are applied correctly. This bill gives the opportunity for real, objective review through the administrative review process, which is not new or novel. The auditor is the only one not subject to the review process now. It also gives rule-making authority to the auditor to avoid their concerns about wasteful appeals. Government agencies have to allow the review of work products to safeguard the citizens they are designed to protect. This bill would set an example for transparency. The SAO did not respond to the defamation suit that was in response to false findings.

No person or agency is capable of keeping a flawless performance. This bill is for when the SAO does not get it 100 percent right and reevaluation may be needed. A careless statement in an audit made public can devastate a family when facts are provided without proof.

There are only four other states where the SAO audits local governments. This bill, giving options to local governments and creating competition, would be a good thing. In terms of a formal appeals processes, we all need checks and balances and this happens in the other four states. Some local governments use private Certified Public Accountant firms for financial audits, however, their work is reviewed and the SAO still conducts an accountability audit. This bill would clarify the option of using private firms for financial audits.

(Opposed) Section 2, regarding the appeals process, is a bigger concern. The SAO is an independent reporting agency that does not have enforcement responsibilities. There is a concern that the appeals process would be used manipulatively, like delaying important findings that would come out right before an election. In regards to transparency and accountability, the SAO provides only opinions. Bond rating agencies use results of audits to establish bond ratings; delays can hurt these local government ratings and cost tax payers. The Constitution established the SAO as an independently elected office for a reason.

Audit standards require that we be independent both in practice and perception, and that we report what we find and how to report those findings. Audit findings are not binding to any official. Audit opinions are professional opinions of auditors who have reviewed documentation and who have applied their professional judgment. It is up to the audited entities to act on the auditors recommendations and any corrections.

The SAO is aware of no other body that has an appeal process similar to the process in this bill. But auditors do provide due process and give officials multiple opportunities to provide additional explanations or materials and at each stage of the audit we reassess. The SAO also sends satisfaction surveys. Over the last eight years, the average score has been 4.4 or higher out of five, which is a really positive result.

Audit standards require both an independent internal quality function and an external peer review every four years. The last peer review in 2013 received the result of "unqualified opinion," which is the highest rating possible.

**Persons Testifying:** (In support) Representative Chandler, prime sponsor; David Andrews, Toppenish School District; David Ridenour, Jeff Carothers, and Peter Roberts, Town of Yacolt; Kelly Roberts; and Greg Kimsey, Clark County Auditor's Office.

(Opposed) Matt Miller and Barb Hinton, State Auditor.

**Persons Signed In To Testify But Not Testifying:** None